

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

Essilor Laboratories of America, Inc.,

Case No.: _____

v.

St. Paul Fire and Marine Insurance Company
n/k/a The Travelers Companies, Inc.,

Plaintiff,

**NOTICE OF REMOVAL BY
ST. PAUL FIRE AND MARINE
INSURANCE COMPANY
(WRONGFULLY NAMED AS ST. PAUL
FIRE AND MARINE INSURANCE
COMPANY n/k/a THE TRAVELERS
COMPANIES, INC.)**

Defendant.

1. Defendant St. Paul Fire and Marine Insurance Company (wrongfully named as St. Paul Fire and Marine Insurance Company n/k/a the Travelers Companies, Inc.) ("St. Paul") is the only named Defendant in the above-captioned case in which Plaintiff, Essilor Laboratories of America, Inc. ("Essilor") alleges it is owed insurance coverage in relation to an underlying action commenced in the Circuit Court of Winnebago County in Oshkosh, Wisconsin as Case No. 05-cv-001237 against numerous defendants. The plaintiffs in the Winnebago County action allege that they are present or former foundry workers that allegedly suffered from occupational lung diseases, including, but not limited to, silicosis, allegedly caused by exposure to silica sand and silica-containing products while allegedly using respirators manufactured by a number of the defendants.

2. Plaintiff Essilor is a Delaware corporation with its principal place of business at 13515 North Stemmons Freeway, Dallas, Texas, and thus is a citizen of both Delaware and Texas.

3. Defendant, St. Paul Fire and Marine Insurance Company, is a Minnesota corporation with its principal place of business at 385 Washington Street, St. Paul MN and thus is a citizen of Minnesota.

4. Plaintiff served its Complaint captioned, *Essilor Laboratories of America, Inc. v. St. Paul Fire and Marine Ins. Co.* venued in the State of Wisconsin, Circuit Court, Brown County, upon St. Paul March 10, 2008. A copy of the Summons and Complaint is attached collectively as Exhibit "A" to this notice.

5. Essilor alleges that St. Paul issued primary comprehensive general liability policies to W.O.S., Inc. from 02/01/83 - 03/01/85, specifically Policy No. 648NB2945 with effective dates from 02/01/83 - 02/01/84, and Policy No. 648NB2965 with effective dates from 02/01/84 - 02/01/85, which later policy was amended to add an endorsement extending the comprehensive general liability coverage to 03/01/85. Plaintiff has alleged that Policy No. 648NB2945 has a \$500,000 limit of liability. St. Paul disputes that Essilor has met its burden of establishing the existence, terms, and conditions of the insurance policies it alleges St. Paul issued to W.O.S., Inc.

6. The United States District Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332 because this is a civil action between citizens of different states in which the amount in controversy, upon information and belief, exceeds the sum or value of \$75,000, exclusive of interest and costs.

7. Because this action is pending in a Wisconsin state court, removal to the United States District Court for the Eastern District of Wisconsin is proper under 28 U.S.C. § 1441.

8. This Notice is being filed within 30 days of the date St. Paul Fire and Marine Insurance Company received a copy of the initial pleading in this action in accordance with 28 U.S.C. § 1446(b).

9. The true and correct copy of the Summons and Complaint attached collectively as Exhibit "A" to this Notice constitutes all process, pleadings, discovery and orders served by Essilor upon St. Paul in this action to date.

10. Concurrent with filing of this Notice of Removal, St. Paul is filing a notice of removal with the Circuit Court, Brown County, State of Wisconsin.

WHEREFORE, Defendant St. Paul Fire and Marine Insurance Company requests that the above-entitled action be removed from the Circuit Court, Brown County, State of Wisconsin to the United States District Court for the Eastern District of Wisconsin and that all further proceedings in this action be held before this Court.

Dated: April 8, 2008

s/ Gregory B. Conway

Gregory B. Conway, WISB#1012636
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and

Dated: April 7, 2008

s/ Stacy A. Broman

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